BILL NO. S-95-08- 11

SPECIAL ORDINANCE NO. S-59-95

AN ORDINANCE of the Common Council ratifying a collective bargaining agreement for employees of the City of Fort Wayne Street Department represented by the International Union of Operating Engineers Local 19 for the years 1995, 1996 and 1997.

WHEREAS, this Council is required to approve all collective bargaining decisions with regard to annual pay and monetary fringe benefits; and

WHEREAS, an agreement has been reached by and between the City and the International Union of Operating Engineers Local 19 through collective bargaining as authorized and envisioned by the City's ordinances; and

WHEREAS, said agreement is for three (3) years, but pursuant to Indiana law, the compensation provided for therein must be annually ratified; and

WHEREAS, this ordinance is necessary to ratify, fix and establish such compensation for said employees of the City of Fort Wayne Street Department for the year 1995 and to approve the other provisions of said agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The collective bargaining agreement by and between the City of Fort Wayne and the International Union of Operating Engineers Local 19, a copy of which is attached hereto, marked Exhibit "A" and incorporated herein, is hereby approved and ratified.

SECTION 2. That this ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Henry, seconded by ~~_____~~, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public ~~Hearing to be~~ held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____ M., E.S.T.

DATED: 8-22-95

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Cox Santa, seconded by ~~_____~~, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7			2
BRADBURY	✓			
EDMONDS				✓
GiaQUINTA	✓			
HENRY	✓			
LONG				✓
LUNSEY	✓			
RAVINE	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 9-12-95

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ ~~(SPECIAL)~~ ~~(ZONING)~~ ORDINANCE ~~RESOLUTION~~ NO. S-5995 on the 12th day of September, 1995

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Don J. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of September, 1995, at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of September, 1995, at the hour of 5:30 o'clock P.M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

BILL NO. S-95-08-11

REPORT OF THE COMMITTEE ON
FINANCE
THOMAS C. HENRY - CHAIR
MARK E. GiaQUINTA - VICE CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) of the Common Council ratifying a collective bargaining agreement for employees of the City of Fort Wayne Street Department represented by the International Union of Operating Engineers Local 19 for the years 1995, 1996 and 1997

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON CUSPOL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
Sam Talarico			
Edward Lavino			

DATED: 9-12-95.

Sandra E. Kennedy
City Clerk

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 19

January 1, 1995 thru December 31, 1997

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PREAMBLE

This Agreement is made and entered into by and between the City of Fort Wayne, Indiana, hereinafter referred to as the Employer, and Local #19 of the International Union of Operating Engineers, AFL-CIO, hereinafter called the Union, and covers all employees of the **Street Department** whose work is done and covered under job classifications listed in **Addenda A.** Furthermore, whenever the male gender is used in this Agreement, it shall include the female gender where applicable.

WITNESSETH

To facilitate the peaceful adjustment of differences that may arise from time to time and to promote harmony and efficiency to the end that the City, the Union, and the general public may mutually benefit, the parties hereto have agreed together as follows:

ARTICLE I - PERIOD OF AGREEMENT

Section 1. Working Agreement:

(a) This agreement shall take effect at the conclusion of satisfactory negotiations, but not before the 1st day of **January, 1995,** and shall continue in force and effect through the 31st day of **December, 1997**, and from year to year thereafter, unless it is cancelled or amended.

(b) Notice of cancellation or requests for amendment shall be submitted no later than **October 1, 1997**, or October 1 of any subsequent year. If amendments are desired, the contents of the amendments shall accompany the notice. If agreement has not been

reached on or before November 30, 1997, or November 30 of any subsequent year and if either party considers the negotiations to date to be unsatisfactory, then either party shall have the prerogative of issuing a thirty-day cancellation notice to be effective on January 1, 1997, or on the anniversary date of any subsequent year. During this notice period, both parties agree to continue negotiations in an effort to reach a settlement.

(c) Changes in the working agreement agreeable to both parties may be made at any time.

Section 2. Wage Schedules: (a) The wage and salary rates set out in Schedules A shall take effect at the conclusion of satisfactory negotiations, and shall be retroactive to the 1st day of July, 1995, and shall continue in force and effect through December 31, 1996. Either party may request a wage reopener no later than October 1, 1996. Should such request be made and should negotiations produce wage schedules other than as set forth in Schedules A of this Agreement, the effective date of such adjustment shall be January 1, 1997, or the first day of the payroll period during which a settlement is reached, whichever is later. Such wage schedules shall remain in effect through December 31, 1996, or until the first day of the payroll period during which a subsequent settlement is reached, whichever is later.

(b) Changes in the wage schedules agreeable to both parties can be made at any time. Such requests will be made in writing by the Union and will be answered in sixty (60) calendar days by the City. If changes are made by the City, the Union will be informed of such changes within five (5) working days.

ARTICLE II - RECOGNITION

Section 1. Management Rights and Responsibilities: (a) Except as otherwise provided in this Agreement, the City in the exercise of its functions of management, shall have the right to decide the policies, methods, fair work and safety rules, direction of employees, assignment of work, equipment to be used in the operation of the City's business, the right to hire, discharge, suspend, discipline, promote, demote, assign and transfer employees and to release such employees because of lack of work or for other proper or legitimate reasons. The enumeration of the above management prerogatives shall not be deemed to exclude other prerogatives not enumerated which management may now have. The exercise of these rights by management shall not be used for the purpose of discrimination or injustice against members of the Union, recognizing that all employees are to be treated with fairness and justice. The Employer agrees that in exercising the rights herein, nothing shall be construed or applied in any manner which negates, modifies, or supersedes the rights of employees or the Union where such rights are expressly set forth in this Agreement.

(b) Whenever decisions on discharging, suspending, disciplining, demoting, and laying off covered employees are contemplated by the City, the Union shall be advised of the reasons therefore and shall be given an opportunity to express its point of view.

(c) The Union recognizes that the Employer reserves the right

to establish rules and/or change existing rules affecting working conditions. The Union shall be brought into any discussions regarding such changes.

(d) The City agrees not to interfere with the rights of its employees to become members of the Union and shall not discriminate against any employee because of membership or official position in or lawful activities on behalf of the Union, and within the bargaining unit without fear of reprisal, intimidation, coercion, harassment, or discrimination for so serving.

In this regard, complaints filed by the Union which allege violation of this section shall be immediately and impartially investigated by a representative of the Labor Relations Department. If needed, the Employer will take necessary corrective action.

Section 2. Recognition:

(a) The City recognizes the Union as the exclusive bargaining agent for its employees within the bargaining unit as listed in **Addenda A** concerning their hours, wages, and other conditions of employment.

(b) Authorized agents of the Union shall have access to the City's establishment during working hours for the purpose of adjusting disputes, investigating working conditions, collecting dues, and ascertaining that the Agreement is being adhered to, provided, however, that there is no interruption of the City's working schedule. If the City requests it, the agents of the Union shall notify the employer of its presence on the premises.

(c) Should a dispute arise between the Union and any other

union relating to jurisdiction over employees, or operations covered by this Agreement, the dispute shall be resolved by the **Public Safety/Human Resources** Director and appropriate representative or tribunals of the unions covered.

Section 3. Agency Shop: (a) Beginning January 1, 1968, as a condition of continued employment, all employees whose job classifications are covered by this Agreement and who elect not to become members of the Union shall pay to the Union directly or through payroll deductions an agency shop fee as determined by the Union. Each employee who enters the bargaining unit shall begin such payments in the month in which he completes his first three months of service.

(b) If an employee fails to comply with the foregoing provisions, the Union shall advise him by certified letter (with a copy to the **Public Safety/Human Resources** Director) that, if he does not pay or arrange to pay his arrears within seven calendar days after receiving the letter, the Union will request the City to terminate his employment. If the employee has not complied by the end of the period, the Union shall notify the **Public Safety/Human Resources** Director, who shall give the employee a further seven-day notice. If the employee has still not complied at the end of that period, he shall be removed from employment with the City, losing all seniority rights and other rights and benefits established by this Agreement.

(c) The Union agrees to indemnify and hold the City harmless from any and all claims or rights of action which may be hereafter

asserted by any person now or hereafter employed by the City and which arise out of the inclusion or enforcement of the provisions of this agency shop section.

Section 4. Dues Checkoff: (a) With proper authorizations, including voluntary written wage assignments from employees who are covered by this Agreement and who are members of the Union, the City shall deduct each month from the earnings of each of said employees an agreed upon amount representing his current regular monthly union dues and shall remit such monies together with the appropriate records to the proper Union official. Any individual wage assignment may be revoked by the employee by giving proper written notice to the City. In the event of an overcharge already remitted to the Union, it shall be the responsibility of the Union alone to adjust the matter with the employee overcharged. In the event of an undercharge, the City shall make the necessary additional deductions in the next succeeding month or months. In any case, the City's responsibility shall not go beyond exercising normal and usual care in carrying out its obligations under this paragraph; the Union will protect the City from any and all further liabilities and claims which may arise under this paragraph.

(b) Any concerted action on the part of the Union, such as strike and slowdowns, will result in the Union Dues Checkoff being suspended for one (1) year starting from the day of such strike or slowdown.

(c) Slowdown defined as inactivities which interfere with the City's normal operations and would be determined by a third party

agreeable by both parties.

Section 5. Union Cooperation: (a) Employees covered by this Agreement will individually and collectively perform loyal and efficient work and service, will use their influence and best efforts to protect the property of the City and its service to the public and will cooperate in promoting and advancing the City's programs and the protection of its service to the public at all times.

(b) The Union recognizes that employees, in accepting work with the City, accept responsibility for responding to the needs of emergency call-ins for snow storms, disaster situations and similar emergencies.

(c) The Union agrees that in no event whatsoever will any of the employees covered by this Agreement be permitted to cease or refuse the continuous performance of their duties in order to coerce the City in a dispute. If, nonetheless, any of the employees covered herein do cease or refuse work of their own volition, the City will be free to replace such employees and to obtain competent services to continue its normal operations.

(d) The City agrees not to prevent the continuous performance by the employees of duties required in the normal and usual operation of the department covered herein. This shall not be interpreted to restrain the City from awarding contracts for work covered by this Agreement when, in the judgment of its management, greater efficiency or economy would result. However, if it is decided to contract out any type of work covered by this Agreement,

it is agreed that no employee having one year or more of seniority will be laid off.

Section 6. Union Officials: The City recognizes the right of the Union to designate job stewards, alternates, and committee persons. The authority of Union officials so designated by the Union shall be limited to and shall not exceed the following duties and activities:

1. The investigation and presentation of grievances in accordance with the provisions of this Agreement.

2. The collection of delinquent dues, initiation fees, and uniform assessments when authorized by appropriate Union action.

3. The transmittal of such information and messages which shall originate with and are authorized by the Union or its officers, provided such information and messages have been reduced to writing, or, if not reduced to writing, are of a routine nature and do not involve work stoppages, slowdowns, refusal to handle goods or any other interference with the City's business.

4. The orderly collective bargaining with management relative to all matters such as renegotiating agreements and all matters contained in present agreement.

Time spent on legitimate Union business shall count toward accrual of forty (40) minimum work hours per week. The lawful pursuit of the aforementioned duties is to be performed during regular working hours.

Section 7. Bulletin Boards: The Employer agrees to furnish

a bulletin board located in the department where employees normally work for the sole use of the Union for posting of matters relating to Union meetings and other Union matters.

ARTICLE III - NON-DISCRIMINATION

The parties agree that there shall be no discrimination in employment opportunities because of color, **creed, gender, sexual orientation, national origin, age, or veteran's status as provided by Title VII of the 1964 Civil Rights Act, and the Age Discrimination in Employment Act of 1967, as amended. Any conflict between this Agreement and the Americans With Disabilities Act shall be resolved in favor of Americans With Disabilities Act of 1990.** This Agreement applies to all existing employees and all applicants for employment with respect to: hiring, placement, upgrading, transfers, demotion, recruitment, advertising, solicitation of employment, treatment during employment, rates of pay or other forms of compensation, selection for training including apprenticeship, layoff, or termination.

ARTICLE IV - GRIEVANCE AND ARBITRATION

Section 1. Grievance Procedure: The City and the Union recognize that, from time to time, grievances, disputes, and complaints may arise over matters within the scope of this Agreement. Therefore, whenever the Union or any employee covered by this Agreement feels that the City has acted erroneously or improperly in interpreting and applying any of the provisions of

this Agreement, then the Union or the employee may file a grievance. Any employee with a grievance will be notified of each of the three steps and shall be requested to attend each step of the grievance process. A grievance is further defined as a violation, or claimed violation, of one or more of the clauses of this Agreement. Any complaint that this Agreement has been violated must cite the section allegedly violated, the way in which it was violated, and redress sought. If an alleged violation cannot be shown to be in violation of a clause in this Agreement, no grievance shall be deemed to exist and the matter in discussion shall be considered as having been resolved. The subject matter of, and the redress sought in the original written grievance, may not be altered in subsequent steps of the grievance procedure. The grievance shall be processed during regular working hours in the manner hereinafter set forth:

Step 1: The grievance shall be written and presented by the aggrieved employee and/or Union representative to the manager of the department wherein the incident which gave rise to the grievance occurred, within ten (10) working days from the date of the alleged violation. The Department Manager must give his/her written answer within **five (5)** working days.

Step 2: If no satisfactory settlement is reached in Step 1 within **five (5)** working days, the grievance shall be advanced to Step 2 by the Union representative, who will discuss the grievance with the Division director. Within **five (5)** working days the Division director shall give his written answer.

Step 3: If the grievance has not been satisfactorily settled in Step 2, the appeal to Step 3 may be made within five (5) working days from receipt of the Step 2 answer. The Union representative shall discuss the grievance with the **Public Safety/**Human Resources Director or his designated representative within ten (10) working days after appeal to this Step. If the above procedure has been followed and the parties are still unable to settle the grievance, the Union shall, within thirty (30) days following receipt of the Employer's Step 3 answer, notify the Employer of the Union's intent to arbitrate the dispute.

Section 2. Arbitration: Upon receipt of written notice by one party from the other, the parties will request from the Federal Mediation and Conciliation Service a panel of seven (7) impartial arbitrators. Upon receipt of such panel, the parties shall mutually agree which party shall strike the first name from the list provided. The remaining names after the first strike shall be eliminated by striking on an alternate basis, and the last remaining name shall be deemed to be the arbitrator selected by mutual agreement of the parties.

The expenses and fees of the arbitrator shall be borne **by the losing party.** The arbitrator shall make a decision based upon the evidence which is submitted at the hearing. Each party shall bear its own costs for preparation, attendance of its own representatives at the hearing including all witnesses, exhibits or any other matter which is the desire of the given party to bring to the attention of the arbitrator.

The function of the arbitrator shall be of a judicial and not a legislative nature. He shall not have the authority to add to, ignore or modify any of the terms and conditions of this Agreement. Any decision rendered by the arbitrator must be in writing. His opinion must cite the Article and Section of the Agreement on which he has based his decision. The decision of the arbitrator shall be final and binding on both parties. In the event the arbitrator rules in favor of the aggrieved party, he may not order redress greater than that sought in the grievance or provided as a maximum in the grievance procedure. Any back pay ordered shall be less any earnings and employment compensation received by any employee from any source during the period of the back pay award. **Additionally, any dues outstanding to the union will be withheld from any back pay ordered and remitted to the local by the City.**

Section 3. Extension of Time Limits: In any of the foregoing steps, the time allowed for discussion, adjustment, or appeal to the next step may be extended by mutual agreement. Failure of the Union or of employees to process the grievance to the next step within the time limit shall constitute a basis for the Employer denying the grievance.

ARTICLE V - REGULATIONS AND WORKING CONDITIONS

Section 1. Working Hours:

(a) See Addendum A **for Street Department.**

Section 2. New Employees: (a) A new employee shall be termed a probationary employee for a period of ninety days, during

which time the City can release such employee at its sole discretion without giving rise to a grievance.

(b) Upon completion of the above probationary period, the employee shall be placed on the seniority list as a regular employee and immediately credited with the seniority which accumulated during this probationary period.

(c) The Employer guarantees the employee a minimum of forty (40) scheduled hours per work week.

Section 3. Seniority: (a) Seniority, as used in this Agreement, shall mean length of service in work covered by this Agreement, except as otherwise provided herein, and shall be measured from the first day of employment. If more than one employee has the same hiring date, order of seniority shall be determined by the last four (4) digits of the employee's social security number; that is, the employee with the lowest number shall have preference.

(b) The seniority of an employee shall terminate under any of the following conditions:

1. When employee is laid off for a period of more than two years.
2. When a laid-off employee fails to give notice of his intentions to return to work within forty-eight hours after the City has sent to his last-known address a certified letter requesting his return. A copy of such letter shall be sent to the Business Agent of the Union.
3. When employee gives such notice but fails to return to

work within one week after the aforesaid letter has been sent to him.

4. When employee resigns his employment with the City.
5. When employee is discharged for just cause.
6. When employee violates the conditions of a leave of absence.
7. When employee is pensioned by the City.
8. When employee is absent more than three (3) days without reporting his absence to his supervisor or the department office, unless unusual circumstances make it impossible to give such notice.

Section 4. Layoff: (a) Employees laid off in any job because of lack of work shall be laid off in the reverse order of their classification seniority in the department. An employee so affected shall be entitled to a job in any classification within the department in which s/he has the necessary qualifications and seniority. In laying off from any department, bargaining unit seniority shall determine the employees to remain.

(b) In the event of any job eliminations or layoffs, the City guarantees that the Union and affected employees will be notified ten (10) working days in advance of such action, or the employee will be paid for ten (10) working days from date of notice. Any bumping shall be implemented within the ten working days advance notice.

(c) The City agrees that stewards, one Business Manager and the president of the local shall have super seniority as far as

layoffs are concerned. **The order of seniority shall be as follows; Business Manager, President and stewards (based upon their date of hire).** All stewards, **the President** and the Business Manager shall be the last employees laid off if there ever comes a time when we need a reduction of the work force in the City. This is based on the stewards, **President** and Business Manager being qualified to do one of the remaining jobs at the time of the layoff, and the stewards, **President** and Business Manager must be duly elected under the by-laws and constitution of the International Union of Operating Engineers.

(d) An employee transferred to another job classification in accordance with the terms of this section shall receive the rate range for the job classification to which he is transferred according to the wage schedules listed in Addenda.

(e) When adding to the forces, those most recently laid off, within a period of two years, shall be the first to be reemployed, if available and qualified, provided they are physically able to do the work.

(f) All time off during any one calendar year in excess of thirty (30) days for layoffs or leave of absence respectively shall be deducted in computing years of service.

(g) In the event it becomes necessary to lay-off a member of the bargaining unit the employee's sick time accrual will be frozen on the date of lay-off.

<u>Section 5. Discipline/Discharge</u>: (a) The Employer shall initiate disciplinary action against a unit employee within ten

(10) work days after knowledge of the action out of which the discipline arose by the Director of Public Safety/Human Resources or his designee, or in failing to do so shall forfeit any right to take disciplinary action for such offense, except this may extend to twenty (20) working days if the Employer notified the Union during the ten (10) work day period.

(b) The City shall not discharge any employee covered by this Agreement without just cause. Before any discharge is in order, the City must have given the employee at least one written warning notice with copies forwarded to the Union and the Personnel Administrator. Each warning notice shall remain in effect for a period of one year, after which said written warning shall be removed from employee's personnel file.

(c) However, such warning notice shall not be necessary when the discharge is for grave offenses such as:

1. **Proven dishonesty.**
2. **Being convicted for a felony in a court of law.**
3. **Stealing of City property or property of co-workers or managers at any worksite.**
4. **Sabotage.**
5. **The use of intoxicating substances during working hours or break periods, or any meals when the employee is returning to work after the meal during a regularly scheduled work shift.**
6. **Alcoholic beverages or illegal substances shall not be brought on City property or City vehicles at any time.**

The Union understands and reaffirms the established City rule listed above and that violation shall be cause for immediate dismissal. If an employee reports in to work under the influence of alcoholic beverages or illegal substances and is unable to perform his/her duties and/or constitutes a safety danger to himself/herself or other employees because of this condition, the employee shall be sent home without pay.

7. Falsification of time-cards, records or intentionally clocking in or out another employee's time card.

8. Willful abuse or damage to City Property or destruction of City property, tools, or equipment, or the property or equipment of a customer or another employee, or failure to report any of the above.

9. Fighting or threatening bodily injury to another employee, supervisor or a member of the general public, except in cases of self-defense or the defense of another.

10. Accepting other employment while on an authorized leave of absence for illness or debilitating injury.

11. Effective April 22, 1994, possession of a weapon by City employees while on duty, while on City property, or while on a City job site unless authorized as set forth below, is strictly prohibited. A weapon shall be defined as any firearm or other instruments of violence. Authorized possession occurs only when:

(1) the employee with a weapon subject to licensing is appropriately licensed through the appropriate licensing authority; and the employee has received written permission from his/her Division Director, Department Manager, and the Public Safety Director to possess said weapon; or

(2) the employee is a Police Officer; or

(3) the employee possesses the weapon in connection with and while undergoing training by the Ft. Wayne Police Department.

12. Fourth step violation of the Attendance Program.

13. Testing positive for an illegal substance during a random drug test, subject to all protections for additional testing of original sample.

14. Refusal to take a required random drug or alcohol test or any drug test based upon reasonable suspicion.

(d) Copies of all disciplinary actions shall be furnished by the Department Manager to the Union and to the Personnel Department within two (2) working days after the action is taken.

Section 6. Promotion: (a) The most senior employee within the department with the job opening shall be given preference in filling job vacancies If there are no qualified bidders within the department with the vacancy, then bidding employees from other departments within the bargaining unit shall be considered for the opening. If there are no qualified bargaining unit employees bidding on the vacancy, the Employer may hire someone from outside

the bargaining unit.

(b) When a vacancy occurs, as determined by management, in a job classification covered by this Agreement, the City shall within fifteen (15) days either inform the Union that the vacancy is not to be filled or shall post an invitation for bids on the vacancy, describing the duties, skills and qualifications required and the wage rate to be paid. When an additional position in a job classification covered by this Agreement is to be filled, a notice shall be similarly posted. Responsibility for notifying the employees who are absent on vacation or sick leave and who are eligible to bid on a posted job shall be assumed jointly by the City and the Union. Any job not covered by the Agreement must be established by mutual agreement prior to posting.

(c) Each such notice shall remain posted for five working days; all bids must be submitted before the end of the posting period. The selection made from among those bidding shall be posted within one calendar week following the close of the posting period. A senior qualified employee unable to submit a bid or to assume a position due to absence on vacation or other leave, who has not been notified of the vacancy shall have the right, on return, to exercise seniority in bumping a successful bidder with less seniority. He must exercise this right within five (5) working days after his return. Notification by management shall be a registered letter to the absent employee at his last-known address.

(d) The Department Head will discuss with the Union the

qualifications of those employees bidding on the vacancy. If an employee with greater seniority who has bid for the vacancy is bypassed in filling any such vacancy, and does not receive the requested transfer, the employee shall upon request, be informed of the reasons therefore. If the City judges that there were no qualified bidders, it shall so inform the Union and those who bid for the job. In filling any such vacancy, the employee shall be temporarily transferred to the vacancy for a period of thirty (30) days, after which he shall receive the permanent classification or be returned to his original classification. If the employee is returned, the City will determine whether or not the job will be rebid, and will notify the Union.

Employees bumped to a classification requiring a Commercial Driver's License (CDL) shall **have forty-five (45) days from the effective date of the bump or notice of bump (whichever occurs first) to obtain a CDL. Street Department employees must possess a CDL before being promoted to a position requiring said license. Time frames as specified above may be extended for reasons other than a failed test.**

(e) Any employee promoted under the provisions of this section shall be allowed three (3) successful bids per 12-month period and shall not bid again except for reasons of health or other reasons acceptable to the City.

(f) When the Department Manager is of the opinion that there are no qualified bidders, he shall so inform the Union steward and those bidding for the job **after a final decision has been made.**

Section 6.5. Attendance Program Effective January 1, 1996)

I. Policy

A. Uninterrupted, on-time attendance is required of all employees. Unscheduled and/or persistent absence from work and frequent tardiness (or leaving early) cannot be allowed by the City since the effectiveness of individual work groups is reduced and overall City costs and performance ability are affected. Employees are expected to arrange their personal affairs and utilize vacation time so that their absence is within the scope of the City's attendance program.

B. Employees are required to call in on each day of absence to report their reason for being absent. Employees are requested to call and report their reason for absence within the first half-hour of their shift; however, they are required to call in their reason for being absent before the end of their shift. The only exceptions shall be employees on approved medical, personal, and military leaves of absence, authorized absence due to work incurred injuries, absence due to prescheduled multiple day vacations, and future consecutive dates of absence for the same medical reason, identified on a doctor's medical disability slip that is acceptable to the City. Employees absent due to death in the immediate family, for which up to three (3) days are allowed, will only be required to call on the first day, provided the family member is specified and all other criteria are met. Tardiness, regardless of the duration, will be treated as any other absence and the same rules applicable to absences shall apply to tardiness. An employee absent three (3) consecutive

days without reporting to the appropriate management official and/or without having a reason acceptable to the City, has voluntarily resigned his/her employment in keeping with Article V - Seniority (Section 3) of the effective collective bargaining agreement.

II. PROCEDURE

A. Supervisors will ensure that their employees are made aware of the City policy regarding absenteeism and tardiness.

B. Supervisors will make adequate daily observations to ensure that they are aware of absenteeism and tardiness. Supervisors are also responsible for giving disciplinary actions in a timely manner.

C. Incidences -

1) Other Than Medical

a) Each full day of absence shall constitute one incident, except under 1.c below.

b) Each tardiness or leave early, one hour or less, shall constitute .5 incident. Each tardiness or leave early, over one hour, shall constitute one incident.

c) If an employee has been granted a personal leave of absence, the entire period would constitute one incident.

2) Medical -

a) Each full day of absence shall constitute one incident, except under 2.c below.

b) Each tardiness or leave early, one hour or less, shall constitute .5 incident. Each tardiness or leave early, over one hour, shall constitute one incident.

c) If an employee has called in to report their absence, as required in I-B, and a Doctor's medical slip has been provided

to the City specifying the medical reasons why the employee was unable to work, and the slip is acceptable to the City, multiple consecutive absences covered by the slip would constitute one incident. The Doctor's slip should be presented to the City as soon as possible; however, the employee must present the slip immediately upon return to work in order to get one incident for the period of absence.

D. Progressive Disciplinary Steps - As a means of controlling absenteeism, the following procedure will be used in determining the appropriate sequence of progressive disciplinary action.

1) First Step - Written Notification

a) If an employee accumulates four incidences within any thirty (30) calendar day period or eight incidences within any one hundred eighty (180) calendar day period, the employee will receive a Written Notification.

2) Second Step - Written Reprimand

a) After incurring absences sufficient for issuance of a Written Notification, if an employee accumulates three incidences within any thirty (30) calendar day period or seven incidences within any one hundred and eighty (180) calendar day period, the employee will receive a Written Reprimand.

3) Third Step - Probation

a) After incurring absences sufficient for issuance of a Written Reprimand, if an employee accumulates three incidences

within any forth-five (45) calendar day period or seven incidences within any two hundred and forty (240) calendar day period, the employee will be placed on Probation.

b) When an employee is placed on Probation, a meeting will be scheduled with the employee to impress upon the employee the seriousness of this step. The availability of both the City Employee Assistance Program and the Union Counselors will be reviewed with the employee.

4) Fourth Step - Termination

a) After incurring sufficient absences to be placed on Probation, if an employee accumulates three incidences in a twelve month period, from the date the employee was placed on Probation, the employee will be terminated.

b) If an employee has accumulated sufficient incidences to warrant termination, prior to the actual cessation of employment, a meeting will be held with the employee to determine if any of the incidences incurred during the probationary period should be mitigated. The authority to mitigate incidences and to establish the criteria used to mitigate incidences rests solely with the City. Only absences accompanied by a call in record will be considered for mitigating circumstances. If an employee does not call in to report the reason for the absence prior to the end of the employee's regularly scheduled shift, that absence will not be

considered for mitigating circumstances. Due to the fact that this is a no-fault policy, incidences will not be mitigated unless extremely unusual and extenuating circumstances exist. This step of the disciplinary procedure is the only step in which incidences may be mitigated. If any of the incidences are mitigated, then the employee's employment may continue based upon the understanding reached in the meeting. If further investigation is required, the employee will continue to work while the investigation ins conducted. After the investigation is completed, the employee will be informed of the decision. If no incidences are mitigated, the employee will be terminated.

E. The following reasons for absence, tardiness or early leave shall not be counted as incidences:

1) Jury Duty (time actually spent on Jury Duty, plus reasonable travel time)
2) City-initiated absences due to lack of work or disciplinary suspension
3) Authorized absence due to an industrial injury
4) Death in the immediate family (as defined by Contract)
5) Court appearance as a witness (not a party) when accompanied by a Subpoena, Summons, or Court Order (only if the Court Order equates to a Summons/Subpoena by inclusion of a body attachment order). Court appearances to accompany minor children shall not count as incidences,

provided court verification of the requirement to attend and actual attendance is furnished. Time excused for court appearance will be time actually spent in court, plus reasonable travel time.

6) Military leaves of absences.

F. Further rules for application of Attendance Program.

1) Incidences of absence, tardiness or early leave may not be dually accumulated for initiation of successive steps of disciplinary action. After incidences have been accumulated as a basis for initiation of disciplinary action, they are mutually exclusive of any other accumulation as basis for further disciplinary action.

2) Failure to report for scheduled overtime after accepting the assignment will be counted as scheduled work for incidences for attendance accumulation purposes.

3) In cases of layoff or leaves of absence, the employee's attendance record shall pick up where it left off. The period of layoff or leave of absence will be carved out of, or excluded from, the requisite time period.

4) Written Notifications, Written Reprimands and Probations remain a part of an employee's active record for twelve months for purposes of determining successive steps of the disciplinary action procedure. In other words, once an employee reaches these steps in the disciplinary action procedure, any further accumulation of

incidences would warrant the next step in the procedure if occurring within the twelve month period following the date of the discipline issued, subject to the provisions of F. 3) above.

5) After completing the necessary time period without further discipline being warranted (twelve months), the employee's position in the progressive discipline procedure will revert to the previous level. It will not "go back to zero" and start over.

6) Absences due to approved vacations shall not result in an incident.

Section 7. Sick and Accident Leaves: (a) Beginning with hire date, a regular employee shall accrue paid sick and personal accident leave at the rate of two and thirty-one hundredths (2.31) hours per week of full employment. The meaning of full employment for sick accrual shall mean, beside all time worked, any time off such as vacation, holidays, etc. and any approved time off such as doctor's appointments, being late for good and sufficient reasons as snow storms, etc. In no instances will sick time be accrued for leaves of absence, layoff, disciplinary layoff, or time off not approved by the City.

Sick pay will not be granted until completion of the 90-day probationary period. Sick leave shall be cumulative and carried over from year to year with no maximum limit of accumulation.

(b) If a regular, hourly rated employee is absent from work because of illness or injury for more than one (1) of his consecutive scheduled working days, then beginning with the first day of

absence from work, the employee shall be entitled to sick leave allowances, payable for the duration of that illness or injury, or until his sick leave credit is exhausted. Any employee who reports for work as scheduled and is sent home because of illness while at work shall be entitled to sick leave allowances for the remainder of the shift until his sick leave is exhausted.

(c) When sick and accident leave allowances are being paid to an employee as a result of an on-the-job injury, any daily or weekly benefits paid him under the Worker's Compensation Act shall be made over by him to the City. If a third party is judged liable or accepts liability for such injury and makes a settlement with the employee for time lost, the amount of such settlement, up to the amount actually paid to the employee by the City, shall also be remitted to the City. If the absence from work of such employee continues beyond the sixty working days provided in paragraph (1) so that any further allowances paid by the City are charged to the employee's accrued sick leave, then the hours equivalent to any benefits received for such additional period from Worker's Compensation and/or a third party shall be restored to his accrued sick leave upon remitting such monies to the City. Any benefits paid the employee under a personally financed insurance policy and any third party benefits paid for an injury not connected with the employee's job shall be exempt from the foregoing provisions.

(d) If an employee retires, any sick leave credit to which he may be entitled shall terminate on the day preceding the day on which he retires.

(e) If an employee becomes ill or is injured while on vacation, the scheduled vacation time shall be counted as vacation; if the illness or injury continues beyond the scheduled time of vacation, the sick leave allowances (if any) shall begin on the first consecutive scheduled working day after the end of the scheduled vacation.

(f) If an employee is laid off, any sick leave allowances to which he may be entitled shall be frozen upon the effective date of the layoff if the employee is notified of the layoff prior to the beginning of the illness or injury. If the notice of layoff is given after the employee becomes ill or injured, the employee shall be entitled to sick leave allowances for the duration of that illness or injury.

(g) In the event an employee has been granted a leave of absence of more than thirty calendar days and then becomes ill or injured before the effective date of the leave, the employee will be afforded the opportunity to cancel the leave. If any employee becomes ill or injured while on any such leave of absence, he shall not be entitled to any sick leave allowances for that disability.

(h) To be entitled to any sick and accident leave allowances hereunder, the employee with respect to each illness or injury shall:

1. Be a regular employee.
2. Have sick leave credit when he becomes ill or injured.
3. Have reported the cause of his absence prior to the beginning of the first scheduled working day of absence.

4. Promptly present a physician's certification that he is ill or injured, if requested by the City.

5. Promptly adopt such remedial measures as may be commensurate with this illness or injury and permit such reasonable examination and inquiries by the City's medical representatives as, in the City's judgment, may be necessary to ascertain employee's condition.

(i) An employee on sick leave shall notify his supervisor as far in advance as possible of the day on which he intends to return to work. If he returns without so notifying the supervisor and if such return would result in extra costs and inconvenience due to rescheduling work, the employee may be sent home without pay for that day.

(j) Employees claiming absences charged to sick leave shall have the responsibility to furnish reasonable explanation of any paid absence to the Employer. In addition thereto, where there is evidence of a pattern of sick leave abuse the Employer shall have the right to require a medical certificate for any absence claimed as sick leave until such time as the pattern of abuse no longer exists.

(k) No paid sick leave shall be allowed for illness or injury caused by willful violence or as a consequence of working for compensation outside the City.

(l) If the disability of a regular employee is caused by injury occurring in the course of employment with the City, the employee shall be paid from the sixth regularly scheduled working

day of such absence and the following sixty scheduled working days of absence shall not be deducted from employee's accumulated sick and accident leave. Disability caused by negligence of a third party shall be compensated from the first day of injury.

(m) Any overpayment of sick and accident leave allowances because of an error or mistake in determining eligibility or a later discovery of relevant material facts, such as the applicability of any of the exclusions set out in paragraph (k), shall be deemed an advance to the employee and the amount thereof, upon discovery of such overpayment, shall be immediately due and payable by the employee to the City. In like manner, any sick and accident leave allowances for an on-the-job injury and/or from a third party as set out in paragraph (c) above shall be deemed an advance and the amount thereof shall be due and payable by the employee to the City upon his receipt of such other payments.

(n) Any claim for paid sick or accident leave shall be for legitimate personal illness or injury of the employee only. If an employee makes a false claim or otherwise abuses the privileges herein established, he shall be subject to a five-day, unpaid suspension for the first offense and discharge for any subsequent offense.

Section 8. Notification of Absence: (a) When reasons beyond an employee's control (such as emergency, medical or other critical or serious circumstances) cause an employee to anticipate being late or absent he/she shall give notice to **his/her Supervisor or designee, if Supervisor and/or designee is not available the**

employee should give notice to the Dispatcher prior to the starting time of the shift on which he works, in order to be eligible for sickness and accident benefits.

(b) If an employee does not have just cause for failing to give notice, he shall be subject to disciplinary action, including discharge for the most severe cases.

Section 9. Examinations: (a) Physical, mental, or other examinations required or requested by the City or by another governmental body, due to illness, injury, or license renewal, shall be promptly complied with by all employees; the City shall pay for all such examinations and the employee shall suffer no loss of pay for complying during regularly scheduled work hours. It shall not pay for any time spent by the applicants for jobs.

(b) The City reserves the right to select its own medical examiner or physician; however, the Union may if it believes injustice has been done an employee, have said employee re-examined at the Union's expense. If, upon re-examination, the findings of that test contradict those of the City's medical examiner, the union will be reimbursed for its expenses.

Section 10. Leaves of Absence: (a) With the written approval of the Department Head, a maximum of thirty calendar days leave of absence in each calendar year may be granted to an employee for reasons other than illness and recuperation therefrom, provided the employee can be spared from duty. Such leave may be extended to six months with the written approval of the Public Safety/Human Resources Director of the City. Subsequent

extensions may be granted by approval of the **Public Safety/Human Resources** Director, up to a maximum of one (1) year, and the Union shall be notified of the extension. While on such leave, the employee shall not be deemed to have forfeited his seniority and rights. **Additionally, members of the bargaining unit may take advantage of leaves of absence under the City's Family Medical Leave Act Policy (FMLA).**

(b) Any employee on leave of absence shall be permitted to return to work only if he is qualified to do so. If such employee accepts employment elsewhere without the written consent of the City, his employment with the City shall be deemed to have been terminated.

(c) Each request for leave shall be considered on an individual basis only and shall be granted or disapproved according to its merit. Any leave taken shall be without pay.

(d) It is not the policy of the City to grant a leave of absence for the purpose of working outside the Department, unless unusual circumstances involving service to the City of Fort Wayne are involved. **These circumstances shall include holding elective office as Mayor, City Clerk, City Council in the City of Fort Wayne. In these cases a leave of absence may be granted for a period of up to four (4) years. During this time said employee's seniority shall be frozen at the point the leave commenced. These leaves may be renewed with the consent of the department manager.**

(e) Pregnancy leave is to be treated the same as any other illness. Accrued personal sick time may be used as needed. In the event all sick time is exhausted, a leave of absence should be granted so that the group insurance benefits may be extended and

all seniority rights protected. Arrangements to pay the insurance premium while on leave should be made with the Payroll Department. The affected employee's ability to perform the necessary duties will be determined by the attending physician and/or the City physician.

(f) Employees exceeding the thirty (30) days regular illness, or maternity leave, who elect to return to work and are physically and contractually qualified, will return to the position held before leave of absence. If previously held position is eliminated while an employee is on a leave of absence, that employee shall return to work with bumping rights commensurate to their seniority. **If previously held position has substantially changed in nature, the returning employee shall have up to forty-five (45) days in which to prove that they meet minimum qualifications for the position.**

Section 11. Leaves for Union Business: (a) Employees called upon to transact for the Union with the City any business which requires them to be absent from duty with the City shall, upon twenty-four hours application and with the proper permission, be granted the necessary time off **unless business is of an emergency nature.**

(b) Employees who handle grievances or complaints shall not suffer any loss of regular pay for the time spent in processing such grievances or complaints.

(c) Employees who serve on the Union negotiation committee shall be paid their regular base pay for the time spent in bar-

gaining the terms of a new agreement. The maximum that will be paid per session shall be a regular scheduled day's pay of eight (8) hours. Not more than **two** such employees shall be excused from their duties at any one time. There shall be two from **the Street Department** covered in the Agreement. The President and Business Manager shall be excused also, in addition to the above.

(d) Any employee elected or appointed to an office in the Union requiring him to be absent from duty with the City shall, at the end of his term in office, be reinstated in his former position, or, if such position has been eliminated, to a job in the highest classification attained prior to holding such position, with all the seniority and rights accrued as of the time he left the City to take over Union duties. Other employees shall agree to the demotions necessary to make room for him on his return. He shall not be paid by the City during his absence.

Section 12. Funeral Leave: In the case of the death of a member of the immediate family of an employee, the employee shall be granted a maximum of three (3) consecutive work days off with straight time pay to attend the funeral and to attend to administrative details. Members of the Immediate Family include; Spouse, Children/Step-Children, Parents/Step-Parents, Father/Mother-in-Law, Brothers/Sisters, Half Brothers/Sisters, Brothers/Sisters-in-Law, Sons/Daughters-in-Law, Aunts and Uncles, Grandparents/Grandparents of Spouse, Grandchildren, whether of natural relationship, legally adopted or under legal guardianship of the employee. Proof may be required before granting this benefit. Management has agreed to

allow one day's leave for Pall Bearers (with only two days per year) for Funeral/Pall Bearer's leave with proper documentation from the funeral home on their stationary and/or a funeral program listing the names of the Pall Bearers.

Section 13. Jury Leave: Employees absent from their duties with the City because of jury duty shall receive the difference between their base pay and the payment received for the period of jury service, upon presentation of proper evidence.

Section 14. Military Leave: (a) Regular employees covered by this Agreement who serve this Country in a military capacity shall be re-employed under the provisions of the Selective Service Act of 1948 and subsequent amendments and acts.

(b) Military Leave: All employees who are National Guard or Reserve personnel shall be entitled to a leave of absence from their respective duties pursuant to proper orders issued by the appropriate military authority with no loss of vacation or other leave time while performing military service.

(c) Military Pay: All employees who are National Guard or Reserve personnel shall also be entitled to leave from their duties without loss of pay for a period not to exceed fifteen days or one hundred twenty hours in a calendar year.

Section 15. Transfers: (a) If an employee is temporarily transferred for two or more hours to a job having a higher rate of pay, he shall receive the higher rate of pay for the entire time so worked. If this higher rated job contains wage time steps, he shall first enter that job at the first step and shall accumulate

credit for time spent on that job. He shall receive either his own rate or the rate of the step he enters, whichever is greater. Temporary transfers shall not continue beyond 30 days.

(b) If an employee is temporarily transferred to a job having a lower rate of pay, he shall not suffer a reduction in his rate of pay.

(c) If an employee is permanently transferred to another job, he shall receive the rate of pay for the job to which he is transferred.

(d) **Employees promoted or assigned to jobs outside the bargaining unit hired after January 1, 1983 shall retain, but not accumulate, any seniority during the time of such transfer or promotion. Those employees hired previous to January 1, 1983 who have been promoted or assigned outside the bargaining unit shall retain seniority up to January 1, 1995 and not accumulate seniority after that date during the time of such transfer or promotion.**

Employees promoted or assigned outside of the bargaining unit after January 1, 1995 shall retain but not accumulate any seniority beginning at the date of acceptance of the promotion or transfer. In the event such employee returns to the bargaining unit, he/she shall be entitled to whatever rights and privileges his/her accumulated seniority would entitle him/her without prejudice.

(e) Nothing herein shall be applied in such manner that results in circumventing the posting of permanent job vacancies, nor will temporary assignments be rotated to avoid effecting a

temporary transfer.

Section 16. Vacations: (a) Upon completion of one (1) full year of service, the employee shall be eligible for two weeks (10 days) of paid vacation. Vacation time is accrued at the rate of 1.54 hours for each week employed in a pay status or the equivalent of two (2) weeks per year. Subsequent to the one year anniversary date, vacation time may be used as it is accrued, with supervisor approval. Time which has not been accrued may not be taken.

(b) When an employee completes five (5) years of continuous service he/she shall accrue vacation at the rate of 2.31 hours for each week employed in a pay status or the equivalent of three (3) weeks per year. This time may be used as it is accrued, with supervisor approval. Time which has not been accrued may not be taken.

(c) When an employee completes fourteen (14) years of continuous service, he/she shall accrue vacation at the rate of 3.08 hours for each week employed in a pay status or the equivalent of four (4) weeks per year. This time may be used as it is accrued, with supervisor approval. Time which has not been accrued may not be taken.

(d) When an employee completes his/her nineteenth (19) year of continuous service and thereafter, the employee shall accrue vacation at the rate of 3.85 hours for each week employed in a pay status or the equivalent of five (5) weeks per year. This time may be used as it is accrued. Time which has not been accrued may not be taken.

(e) Six-day shift employees shall receive a 6th day of paid vacation time, at straight-time pay, for each five consecutive days of vacation taken.

(f) Unused vacation shall automatically be carried over into the next year. In no event will more than one year of vacation accrual be carried over. Amounts of more than one year carryover shall be reimbursed to the employee.

(g) When a paid holiday occurs during an employee's vacation, the employee will not be required to use a vacation day to excuse the absence on that day.

(h) If an employee is called back to work on one or more of the days for which he is receiving vacation pay, he shall be paid an extra time and one-half for all hours worked within his regularly scheduled hours on such day or days. Any time worked on a day for which employee is not receiving vacation pay shall be paid for according to the standard provisions of the Premium Pay clause in this Agreement.

(i) In order to avoid disrupting the working schedule, the City shall designate the vacation periods. When setting the schedule of vacations, the City shall respect the wishes of its employees in the order of their seniority as far as the needs of its service will permit.

(j) Upon termination of City employment, the employee shall be paid for all accrued and unused vacation. The City of Fort Wayne may, at its option, pay the ;employee at the time of termination, over a period of time that would equate to to the

individual's salary as if he/she were working, or over a 120 day period. In no event shall payment be extended over a period longer than 120 days.

(k) In the event of the death of an employee who has earned but not used his vacation for the contract year in which death occurred, his beneficiary or estate shall receive an amount equivalent to his earned vacation plus prorated vacation for the year in which the death occurs.

(l) The Department Manager shall distribute to each employee as soon after the first of the year as is practicable a vacation form showing the number of weeks of vacation each employee is entitled to take; the employee shall indicate on the form the dates he prefers for his vacation and shall return the completed form to the Department Head within fifteen (15) calendar days or as indicated on the form. Employees may split their weeks or take them all at one time. Employees may take up to one week of vacation on a day-at-a-time basis.

The Department Manager shall then make the vacation assignments according to the requests submitted and in the order of the employees' seniority, modified only by the above paragraph. Employees who are late in returning their vacation request forms shall have their vacations assigned only after the other employees' vacations have been scheduled. The completed schedule of vacations shall then be posted; after such posting, no changes in vacations shall be allowed except by posting and bidding, with seniority governing the reassignments.

Section 17. Legal Holidays: (a) **Holidays within the meaning of this Agreement, shall be:**

New Year's Day	Veterans Day
M.L.King's Birthday	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Eve Day
Labor Day	Christmas Day

or days celebrated for the foregoing. Holidays falling on Sunday shall be celebrated on the following Monday. **However, holidays falling on a Sunday shall be celebrated on Sunday for employees on six (6) days on/two (2) days off schedule only.** Holidays falling on Saturday shall be celebrated on the preceding Friday. **However, holidays falling on a Saturday shall be celebrated on Saturday for employees on six (6) days on/two (2) days off schedule only. Holidays falling on consecutive days of Sunday and Monday shall be celebrated on the following Monday and Tuesday. However, holidays falling on consecutive days of Sunday and Monday shall be celebrated on Sunday and Monday for employees on six (6) days on/two (2) days off schedule only.**

(b) Each hourly-rated employee covered herein, subject to the limitations of the following paragraph (c), shall be allowed as holiday pay the equivalent to his regular straight time base pay for each of the holidays recognized in the Agreement, whether such holiday falls on his regularly-scheduled workday or not.

(c) The aforesaid holiday pay shall not be allowed to an employee who is absent from work on the scheduled workday previous

to or following the holiday unless a reason satisfactory to the City is given.

(d) Any employee who works on a holiday shall receive double his regular straight time pay, including any applicable shift premium, for the shift hours actually worked.

(e) An hourly-rated employee temporarily working in a classification on a wage rate higher than his base rate shall receive such higher rate for the holiday if he works the scheduled hours in the temporary classification on both the workday preceding and following the holiday.

Section 18. Premium Pay-Overtime: (a) All hours worked over forty (40) in a seven-day cycle, which starts at 12:01 am Sunday and ends at midnight Saturday, qualify for Fair Labor Standards Act (FLSA) premium pay at one and one-half times the employee's hourly rate. Hours worked include hours actually worked, paid holidays, and compensatory time used, but do not include paid sick time, funeral leave, personal time, vacation time, or unpaid time off.

The City shall have the right to reschedule work on a temporary basis to avoid paying overtime; however, such rescheduling, for an employee with 6/2 workweeks, shall not be done in such a manner as to deprive the employee of an opportunity to work six consecutive days, unless the employee consents.

The City shall have no right to change the normal work schedule of an employee with 5/2 workweeks unless there is a temporary change of shift, a temporary change of duty assignment, or the employee consents. Under no circumstances may the City send

an employee home during a scheduled workday solely to avoid paying overtime, unless the employee has worked at least eight hours or the employee consents.

(b) Whenever hours worked are subject to overtime rates on account of two or more provisions of this Agreement, only one overtime rate shall be effective. If the overtime rates are different, the higher rate shall be applied. Notwithstanding any other provisions of this Agreement, in no event shall the combination of overtime pay plus holiday pay or any other pay applying to the hours worked be greater than double time.

(c) As far as it is practicable, all overtime work shall be equally and impartially divided among the employees who generally work in the classification performed at the overtime rate. Each department will maintain and post an accurate employee list showing accumulated overtime hours. This provision shall not be interpreted to limit the Department Heads in rescheduling work or temporarily transferring employees to avoid overtime work or to assure continuity of operations at all times.

(d) **An employee who is called back to work after being released from a regular day's work shall be paid a minimum of three (3) hours at the applicable rate of pay for such work. Time will start when the employee reaches the worksite and shall be retroactive up to one hour preceding employees arrival at the worksite. If the employee called arrives after one-hour, the employee will be sent home with no pay due, unless a valid reason for delay is presented to the Manager of the Department.**

(e) A shift premium of **thirty (30)** cents per hour shall be paid for all the hours actually worked on a shift having 50 percent or more of the hours scheduled between 6:00 p.m. and midnight. A shift premium of thirty-**five (35)** cents per hour shall be paid for all the hours actually worked on a shift having 50 percent or more of the shift hours scheduled between 12:00 midnight and 6:00 a.m. Swing shift employees shall receive shift premium of thirty-**five (35)** cents per hour for all hours worked. In computing overtime for shift work, the overtime factor shall be applied to the base rate and the applicable shift premium payment then shall be applied. There shall be no pyramiding of overtime. **Shift differential shall be paid for personal time, vacation and holidays if time off occurs during or after the week in which premium hours were worked. Shift premium however, shall not be applied towards sick time hours.**

(f) Employees, in the event an emergency is declared by the Mayor, or his designee, which impacts the majority of Civil City and City Utilities Departments and requires personnel from them will be compensated at their straight time hourly rate, plus $2.50 added to this rate for all overtime hours. This special rate is to be received by all unions with bargaining agreements with the City and will provide equitable compensation for unusual and extraordinary need of City services by the community.

Section 19. Safety Practices: (a) A safety committee will be established to function and to hold regularly-scheduled monthly meetings in their respective department. The committee members will be chosen by both management and the Union for the purpose of making constructive recommendations to the Employer.

(b) If an employee neglects to follow the safety practices established by the City for the work he performs (including the proper use of protective equipment supplied by the City,) he shall, after proper warning, be subject to disciplinary action.

(c) The employee shall purchase **and wear** required safety shoes. The City shall pay the cost of one pair per year of industrial safety glasses as approved by the Risk Management Department, up to a maximum of $50.00, with receipt of purchase. The City will not pay any cost incurred by or in connection with a prescription that may be needed to acquire safety glasses. If the safety glasses are broken in the work area, when working, the City will replace them at the entire cost to the City.

(d) Both the City and the employees covered by this Agreement recognize that, as owners and operators of motor vehicles, they share legal and moral obligations to the public to see that such vehicles meet minimum safety requirements. Therefore, any employee who detects a mechanical fault or other unsafe condition in any vehicle or other property of the City shall forthwith inform the proper supervisors who shall make a fitting examination of the equipment in question. When a fault thus verified involves the braking or steering mechanisms and is of a nature to make the equipment unsafe for street use, then such equipment shall be taken out of service until the fault is corrected.

(e) Uniforms **shall** be worn by all employees represented by the bargaining unit **if required by the supervisor.** Such uniforms shall be furnished by the City at no cost to the employee.

Uniforms not worn by the employee shall be returned to the City.

(f) Foul weather gear as listed herein, or as determined by management, shall be furnished by the City at no cost to the employee. Said gear shall be checked in and out by management and assigned to a specific employee:

The Street Department shall furnish rainsuits/**raincoats.**

(g) Employees shall be reimbursed up to a maximum of $25.00 for the cost of Commercial Driver's License renewal if their current job description requires such certification.

(h) Employees of the Street Department shall be required to bear the expense for their own license, certification or recertification other than a job required renewal of a CDL.

Section 20. Retirement: (a) Upon retirement or the death of an employee, under the terms of any of the City's recognized retirement programs (which includes PERF and the Federal Social Security Program) an employee or the employee's beneficiary shall receive credit for all accumulated sick time and shall be paid for said time at the following rates:

(1) $1.00 for each hour up to 520 hours.

(2) Twenty-five (25) percent of the employee's normal straight-time hourly rate for each accumulated hour over 520.

In lieu of (2) above, an employee or beneficiary may use such accumulated sick leave over 520 hours to purchase group health insurance the Employer is required to make available to retired employees under I.C. 5-10-8-2.6, with credit given at fifty (50) percent of the employee's normal, straight-time hourly rate for

each accumulated hour over 520.

(b) All bargaining unit employees shall be covered by the Public Employees' Retirement Fund of Indiana (PERF) and will be credited with all prior service with the Employer whether previously covered by PERF, Municipal Utilities Pension Fund (MUPF,) or no pension plan. Employees with broken service will be credited for past service on a cumulative basis, provided no withdrawals of contributions have been made. Where PERF withdrawals have been made, the Administrator of the PERF shall determine whether periods of service for which a withdrawal was made will be credited and the conditions which must be met in order to receive such credit. In cases where previous service was credited under MUPF and refunds were made from that Plan, broken service for which a refund was made will not be credited unless affected employees repay to the City Utilities the amount refunded by MUPF.

(c) Each employee who retires under one of the programs cited in Paragraph (b) above, and who has at least eight years of continuous service at retirement, shall receive a $5,000 life insurance policy for the rest of his/her life.

(d) Employees who retire under the terms of any of our recognized retirement programs with a minimum of five (5) years' consecutive service shall be eligible to participate in the current retirees' group insurance plan at the rates determined by the carrier.

Section 21. Insurance: (a) The Employer agrees that basic life, medical, dental and long-term disability insurance benefits

shall be extended to all bargaining unit employees for the life of this Agreement. The co-payment cost for the $250 deductible plan shall be **Thirty-one dollars and twenty-five cents ($31.25)** per month per employee **for single coverage, fifty dollars ($50.00) for single plus one coverage, seventy-seven dollars fifty cents ($77.50) for family coverage. These rates will be effective January 1, 1995 through December 31, 1996.** Co-payment rates shall be negotiated annually. Optional insurance benefits may be offered at rates set forth by the Employer for all employees.

(b) All insurance policies will terminate for the following reasons:

1) Termination of employment.

2) Thirty (30) days after date of layoff.

3) City employees on legitimate regular illness, or maternity, leave of absence will be covered under the City insurance plan for thirty (30) calendar days. In case of illness or maternity leave, this shall not apply until accrued sick leave pay is exhausted. If the employee elects to extend such insurance coverage beyond the 30 calendar days, he may do so by contacting the Payroll Department and arranging to pay the full insurance premium at the existing rate at the time of the leave of absence. The City shall waive the premium payment by the employee for a period not to exceed six months during serious long term illness, including extended pregnancy leave for medical reasons.

4) Strike or slowdown. Slowdown defined as any activities which interfere with the City's normal operations and would be

determined by a third party agreeable to both parties.

(c) Employees actively at work on the first day following their first 30 days of employment shall be eligible for all insurance plans covered under this Agreement.

Section 22. Personal Time: (a) Employees shall receive five days personal time each year commencing with the completion of one (1) year's continuous service.

Employees who have completed six (6) years of continuous service shall receive six (6) days personal time each year. Employees who have completed twenty-five (25) years or more of continuous service shall receive eight (8) days personal time each year.

As an additional personal day, an employee shall be entitled to a paid day off for his/her birthday if s/he is in an active employment status on his/her birthday.

All personal time authorized by this Article V, Section 22 (a) shall be earned from date of hire or rehire and shall be granted to each employee on his/her anniversary date for use during the following year.

(b) Except for employees on 6 days on/2 days off schedule, personal time will be taken separately from any vacation time, and must be approved by management at least one (1) working day prior to the request for such personal day. In the event of an emergency, as determined by the Department Manager, the one working day notice may be waived. Personal time may not be carried over from year to year.

Section 23. Separability and Savings: (a) If any article or section of this Agreement or of any riders thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of an article or section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Agreement or of any rider thereto, or the application of such article or section to persons or circumstances other than those as to which it has been held invalid or as to which compliance or enforcement has been restrained, shall not be affected thereby.

(b) If any article or section is held invalid or if enforcement or compliance with such article or section has been restrained as above set forth, the parties shall enter into immediate collective bargaining negotiations upon the request of either party, for the purpose of arriving at a mutually satisfactory replacement for such article or section during the period of invalidity or restraint.

IUOE #19 - STREET DEPARTMENT

Schedule A - January 1, 1995

Effective from January 1, 1995 and continuing for the life of this agreement, the City shall pay the employee's portion of PERF contributions. Effective January 1, 1995, hourly wage rates for regular authorized positions shall be increased $.12 above 1994 rates, and shall be as follows:

Job Titles	First 3 Months	4 thru 6 Months	Over 6 Months
Accounting Asst/Senior Bookkeeper	10.871	11.298	12.144
Asphalt Plant Operator	12.803	------	------
Building Service Person	11.224	------	------
Communications Operator	11.100	11.239	11.596
Concrete Man	------	------	------
Culvert & Drainage Repairer	11.854	------	------
Laborer	10.354	10.616	10.968
Laborer A	10.554	10.816	11.168
Operator A	12.549	.	------
Operator B	11.854	------	------
Payroll Clerk/Typist A	10.871	11.298	12.144
Sweeper Operator	11.929	------	------
Tool Room Attendent	11.031	------	------
Troubleshooter	11.629	------	------
Truck Driver	11.494	------	------
Welder	12.153	------	------

IUOE #19 - STREET DEPARTMENT

Schedule B - July 1, 1995

Effective from July 1, 1995 and continuing for the life of this agreement, the City shall pay the employee's portion of PERF contributions. Effective July 1, 1995, hourly wage rates for regular authorized positions shall be increased 1.5% above January 1, 1995 rates, and shall be as follows:

Job Titles	First 3 Months	4 thru 6 Months	Over 6 Months
Accounting Asst/Senior Bookkeeper	11.034	11.467	12.326
Asphalt Plant Operator	12.995	------	------
Building Service Person	11.392	------	------
Communications Operator	11.267	11.408	11.770
Concrete Man	------	------	------
Culvert & Drainage Repairer	12.032	------	------
Laborer	10.509	10.775	11.133
Laborer A	10.712	10.978	11.336
Operator A	12.737	------	------
Operator B	12.032	------	------
Payroll Clerk/Typist A	11.034	11.467	12.326
Sweeper Operator	12.108	------	------
Tool Room Attendent	11.196	------	------
Troubleshooter	11.803	------	------
Truck Driver	11.666	------	------
Welder	12.335	------	------

IUOE #19 - STREET DEPARTMENT

Schedule C - January 1, 1996

Effective from January 1, 1996 and continuing for the life of this agreement, the City shall pay the employee's portion of PERF contributions. Effective January 1, 1996, hourly wage rates for regular authorized positions shall be increased 2.5% above July 1, 1995 rates, and shall be as follows:

Job Titles	First 3 Months	4 thru 6 Months	Over 6 Months
Accounting Asst/Senior Bookkeeper	11.310	11.754	12.634
Asphalt Plant Operator	13.320	------	------
Building Service Person	11.677	------	------
Communications Operator	11.549	11.693	12.064
Concrete Man	------	------	------
Culvert & Drainage Repairer	12.333	------	------
Laborer	10.772	11.044	11.411
Laborer A	10.980	11.252	11.619
Operator A	13.055	------	------
Operator B	12.333	------	------
Payroll Clerk/Typist A	11.310	11.754	12.634
Sweeper Operator	12.411	------	------
Tool Room Attendent	11.476	------	------
Troubleshooter	12.098	------	------
Truck Driver	11.958	------	------
Welder	12.643	------	------

DIGEST SHEET

TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE LAW DEPARTMENT

SYNOPSIS OF ORDINANCE RATIFIES COLLECTIVE BARGAINING AGREEMENT FOR MEMBERS OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 19 / STREET DEPARTMENT, FOR THE YEARS 1995, 1996 AND 1997.

S-95-08-11

EFFECT OF PASSAGE AGREEMENT APPROVED.

EFFECT OF NON-PASSAGE AGREEMENT NOT APPROVED.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

Please attach to
Bill No. 0-95-08-11

Admn Appr _____

DIGEST SHEET

TITLE OF ORDINANCE: Approving negotiated rate increase and contract for employees of the Street Department covered by the International Union of Operating Engineers Local 19 (**IUOE**) for the year **1995.**

DEPARTMENT REQUESTING ORDINANCE: Human Resources (08/17/95)

SYNOPSIS OF ORDINANCE: Three year contract and approval of 12 cents plus 1.5 percent increase in all rates covered by attached Wage Schedules A and B - 1995.

EFFECT OF PASSAGE: New contract language and 12 cents/hr plus 1.5 percent wage rate increase over 1994 rates.

EFFECT OF NON-PASSAGE: Continue with 1992 Contract Language and rates remain at 1994 levels.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): 2,011,360/year (Based upon 08/08/95 figures off 85ees @ $ 967/hr x 2080 hrs/yr = $2,011,360, + (.12 x 85 = 10.20 x 2080=) $21,216/yr = $2,032,576 x .015 = $30,488 + 21,216 = $51,704)